

§ 127.009

to the port environment, the LNG or LHG facility, or the tanker route, that would affect the suitability of the waterway for LNG or LHG traffic.

(4) Submit a final report to the COTP at least 30 days, but not more than 60 days, prior to the start of operations.

[USCG-2007-27022, 75 FR 29426, May 26, 2010]

§ 127.009 Letter of recommendation.

After the COTP receives the Letter of Intent under § 127.007(a) or (b), the COTP issues a Letter of Recommendation as to the suitability of the waterway for LNG or LHG marine traffic to the Federal, State, or local government agencies having jurisdiction for siting, construction, and operation, and, at the same time, sends a copy to the owner or operator, based on the—

(a) Information submitted under § 127.007;

(b) Density and character of marine traffic in the waterway;

(c) Locks, bridges, or other man-made obstructions in the waterway;

(d) Factors adjacent to the facility such as—

(1) Depths of the water;

(2) Tidal range;

(3) Protection from high seas;

(4) Natural hazards, including reefs, rocks, and sandbars;

(5) Underwater pipelines and cables;

(6) Distance of berthed vessel from the channel and the width of the channel; and

(e) Other safety and security issues identified.

[USCG-2007-27022, 75 FR 29427, May 26, 2010]

§ 127.011 Inspections of waterfront facilities.

The operator shall ensure that the COTP or his representative is allowed to make reasonable examinations and inspections to determine whether the facility meets this part.

[CGD 78-038, 53 FR 3376, Feb. 7, 1988, as amended by CGD 88-049, 60 FR 39795, Aug. 3, 1995]

§ 127.013 Suspension of transfer operations.

(a) The COTP may issue an order to the operator to suspend LHG or LNG transfer operations if the COTP finds

33 CFR Ch. I (7-1-12 Edition)

any condition requiring immediate action to—

(1) Prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters; and

(2) Protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss.

(b) Each order to suspend transfer operations issued under paragraph (a) of this section—

(1) Is effective immediately;

(2) Contains a statement of each condition requiring immediate action; and

(3) Is withdrawn by the COTP whenever each condition is corrected or no longer exists.

[CGD 78-038, 53 FR 3376, Feb. 7, 1988, as amended by CGD 88-049, 60 FR 39795, Aug. 3, 1995]

§ 127.015 Appeals.

(a) Any person directly affected by an action taken under this part may request reconsideration by the Coast Guard officer responsible for that action.

(b) Except as provided under paragraph (e) of this section, any person not satisfied with a ruling made under the procedure contained in paragraph (a) of this section may—

(1) Appeal that ruling in writing to the District Commander of the district in which the action was taken; and

(2) Supply supporting documentation and evidence that the appellant wishes to have considered.

(c) The District Commander issues a ruling after reviewing the appeal submitted under paragraph (b) of this section. Except as provided under paragraph (e) of this section, any person not satisfied with this ruling may—

(1) Appeal that ruling in writing to the Assistant Commandant for Marine Safety, Security and Environmental Protection, U.S. Coast Guard, (CG-5), 2100 2nd St., SW., Stop 7355, Washington, DC 20593-7355; and

(2) Supply supporting documentation and evidence that the appellant wishes to have considered.

Coast Guard, DHS

§ 127.103

(d) The Assistant Commandant for Marine Safety, Security and Environmental Protection issues a ruling after reviewing the appeal submitted under paragraph (c) of this section, which is final agency action.

(e) If the delay in presenting a written appeal has an adverse impact on the operations of the appellant, the appeal under paragraph (b) or (c) of this section—

(1) May be presented orally; and

(2) Must be submitted in writing within five days after the oral presentation—

(i) With the basis for the appeal and a summary of the material presented orally; and

(ii) To the same Coast Guard official who heard the oral presentation.

[CGD 78-038, 53 FR 3376, Feb. 7, 1988, as amended by CGD 96-026, 61 FR 33665, June 28, 1996; CGD 97-023, 62 FR 33363, June 19, 1997; USCG-2002-12471, 67 FR 41332, June 18, 2002; USCG-2010-0351, 75 FR 36283, June 25, 2010]

§ 127.017 Alternatives.

(a) The COTP may allow alternative procedures, methods, or equipment standards to be used by an operator instead of any requirements in this part if—

(1) The operator submits a written request for the alternative at least 30 days before facility operations under the alternative would begin, unless the COTP authorizes a shorter time; and

(2) The alternative provides at least the same degree of safety provided by the regulations in this part.

(b) The COTP approves or disapproves any alternative requested under paragraph (a) of this section—

(1) In writing; or

(2) Orally, with subsequent written confirmation.

§ 127.019 Operations Manual and Emergency Manual: Procedures for examination.

(a) The owner or operator of an active existing facility shall submit two copies of the *Operations Manual* and of the *Emergency Manual* to the Captain of the Port of the zone in which the facility is located.

(b) At least 30 days before transferring LHG or LNG, the owner or operator of a new or an inactive existing fa-

cility shall submit two copies of the *Operations Manual* and of the *Emergency Manual* to the Captain of the Port of the zone in which the facility is located, unless the manuals have been examined and there have been no changes since that examination.

(c) If the COTP finds that the *Operations Manual* meets § 127.305 or § 127.1305 and that the *Emergency Manual* meets § 127.307 or § 127.1307, the Captain of the Port returns a copy to the owner or operator marked “Examined by the Coast Guard”.

(d) If the COTP finds that the *Operations Manual* or the *Emergency Manual* does not meet this part, the Captain of the Port returns the manual with an explanation of why it does not meet this part.

[CGD 78-038, 53 FR 3376, Feb. 7, 1988, as amended by CGD 88-049, 60 FR 39795, Aug. 3, 1995]

Subpart B—Waterfront Facilities Handling Liquefied Natural Gas

§ 127.101 Design and construction: General.

The marine transfer area for LNG must meet the following criteria in NFPA 59A:

(a) Chapter 2, Sections 2-1.2 and 2-3.

(b) Chapter 4, Section 4-1.3.

(c) Chapter 6.

(d) Chapter 7, Sections 7-6 and 7-7.

(e) Chapter 8, except Sections 8-3, 8-5 and 8-7.2.

[CGD 78-038, 53 FR 3376, Feb. 7, 1988, as amended by CGD 88-049, 60 FR 39795, Aug. 3, 1995]

§ 127.103 Piers and wharves.

(a) If the waterfront facility handling LNG is in a region subject to earthquakes, the piers and wharves must be designed to resist earthquake forces.

(b) Substructures, except moorings and breasting dolphins, that support or are within 5 meters (16.4 feet) of any pipe or equipment containing LNG, or are within 15 meters (49.2 feet) of a loading flange, must—

(1) Be made of concrete or steel; and

(2) Have a fire endurance rating of not less than two hours.